

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD PREIK,	)	
	)	Civil Action No. 10 - 1612
Petitioner,	)	
	)	Magistrate Judge Lisa Pupo Lenihan
v.	)	
	)	
DISTRICT ATTORNEY OF ALLEGHENY	)	
COUNTY; ATTORNEY GENERAL OF	)	
THE STATE OF PENNSYLVANIA,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

On December 03, 2010, the above captioned case was initiated by the filing of a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to me for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules for Magistrate Judges. On January 24, 2011, the parties consented to have a United States Magistrate Judge conduct any and all further proceedings in the case, including entry of final judgment, with direct review by the United States Court of Appeals for the Third Circuit if an appeal is filed (ECF Nos. 13, 14).

On August 12, 2011, I filed a "Memorandum Opinion and Order" (ECF No. 31) recommending that the Petition for Writ of Habeas Corpus be denied and that a certificate of appealability be denied. Although the Court captioned the document as a Memorandum Opinion and Order, it was identified as a Report and Recommendation on the docket, referred to recommendations in its body, and advised Petitioner he had fourteen days within which to file objection. This was done in error. There is no right to

**file objections once the parties have consented to the jurisdiction of the magistrate judge and the opinion was properly a Memorandum Opinion and not a Report and Recommendation.**

**On September 1, 2011, Petitioner filed Objections to the denial of his Petition for Writ of Habeas Corpus (ECF No. 32). Petitioner's objections do not undermine the determination that the Petition for Writ of Habeas Corpus should be denied. An appropriate order follows.**

**AND NOW, this 7th day of September, 2011;**

**IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DENIED.**

**IT IS FURTHER ORDERED that a certificate of appealability is DENIED.**

**IT IS FURTHER ORDERED that the Report and Recommendation/Memorandum Opinion (ECF No. 31) is ADOPTED as the Opinion of the Court.**

**IT IS FURTHER ORDERED that Petitioner's Motion for Discovery/Production of Documents (ECF No. 25) is denied.**

**IT IS FURTHER ORDERED that the Clerk of Court mark this case CLOSED.**

**AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.**

**By the Court:**

A handwritten signature in black ink, appearing to read 'Lisa P. Lenihan', written over a horizontal line.

**Lisa Pupo Lenihan**  
**United States Magistrate Judge**

**cc:** Donald Preik  
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SCI Forest  
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